IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.51793 of 2006
NILAMBAR KUMAR SINGH
Versus
STATE OF BIHAR
With
Cr.Misc. No. 10708 of 2008
Bablu Singh @ Babloo Singh
Versus
STATE OF BIHAR
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6. 1.5.2008 Heard leaned counsel for the petitioners, counsel for the informant and the A.P.P. representing the State.

Cr.Misc.No.51793 of 2006 was earlier listed on 6.2.2007 and the informant appeared and made a prayer that a S.L.P. is pending against the order of this court passed in Cr.Misc.No. 12087/2006 by which Patel Singh had been granted bail. The matter again came up on 27.3.2008 and the order was reserved. However, due to some problem, the file could not be located and finally it was again listed along with Cr.Misc.No. 10708 of 2008 and both the cases are being disposed of by this common order.

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The petitioners are seeking bail in a case under sections 366A, 302, 120B and 201/34 of the Penal Code.

The allegations in the F.I.R. which was lodged on 24.5.2005 by Prabhakar Singh is that he had gone out from the village and when he returned, he was told by his younger brother that their sister was missing since 20.5.2005. However, no case was lodged by the younger brother of the informant. The informant returned to the village on 22.5.2005 and the body of his sister Gayatri Kumari was recovered on 24.5.2005. Thereafter, the F.I.R. was lodged.

In the F.I.R. it is alleged that the persons named therein

including petitioner Nilambar Kumar Singh was seen a few days prior to the occurrence sitting at the door and pointing towards the house of the informant. It is said that the informant and the accused persons had enmity with each other and on this basis it is suspected that the accused persons named in the F.I.R. had kidnapped the sister of the informant and raped and killed her.

During investigation it appears that the name of Bablu Singh was also disclosed by one co-accused Surendra Pandey who has stated that he along with Bablu and other accused persons had kidnapped the victim girl and raped and killed her. Apart from this confessional statement before the police, one witness , namely, Suresh Yadav has stated in the diary that he had identified Nilambar and some others riding on a motor cycle and he had also seen that they were accompanied by one girl although the girl has not been identified by Suresh Yadav.

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The trial in this case has commenced and ten witnesses have been examined.

Learned counsel for the petitioners has produced the certified copy of the evidence of the witnesses. PW 1 is Suresh Yadav, the witness who had allegedly identified Nilambar on a motor cycle with a girl on the date on which the occurrence took place. However, in the dock he did not identify Nilambar or Bablu. In fact he states that the Nilambar he identified was the person who lived in Munger. Similarly the brother of the deceased has been examined as PW 6 and he also does not support the prosecution case.

Learned counsel for the petitioners submits that for the purpose of bail, a prima facie case has not been made out and the petitioners are not likely to abscond. It is further submitted that there is a dispute with respect to the property which has been mentioned in paragraphs 148, 149 and 150 of the case diary wherein witnesses have stated that Patel, Harendra, Nilambar, Ulkesh and some others are Gotiyas of the informant and they have been involved in this case due to land dispute between them.

The informant, on the other hand, submits that the trial is likely to conclude within a short period of time.

Be that as it may, the petitioners, namely, Nilambar Kumar Singh and Bablu Singh @ Babloo Singh are directed to be released on bail in Sono PS Case No. 44/2005 giving rise to S.T. No. 314/2006 on furnishing bail bonds of rupees ten thousand each with two sureties of the like amount each to the satisfaction of the Addl. Dist. & Sessions Judge, F.T.C. IIIrd, Jamui, with the conditions that the petitioners should be present as and when required by the court and if they are absent even for a single day without cause, their bail bonds shall be cancelled.

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haque **(Sheema Ali Khan, J.)**